

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**April 26, 2017**

Diane M. Fremgen  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2016AP2072**

**Cir. Ct. No. 2016CV211**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**VILLAGE OF FAIRWATER,**

**PLAINTIFF-RESPONDENT,**

**V.**

**KELVIN L. GREENFIELD,**

**DEFENDANT-APPELLANT.**

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APPEAL from a judgment of the circuit court for Fond du Lac County: PETER L. GRIMM, Judge. *Affirmed.*

¶1 REILLY, P.J.<sup>1</sup> Kelvin L. Greenfield appeals from a judgment of conviction for operating with a prohibited alcohol concentration (PAC), contrary

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<sup>1</sup> This appeal is decided by one judge pursuant to WIS. STAT. § 752.31(2)(g) (2015-16). All references to the Wisconsin Statutes are to the 2015-16 version unless otherwise noted.

to WIS. STAT. § 346.63(1)(b). Greenfield contends that the circuit court erred in denying his motion to suppress evidence as the officer lacked reasonable suspicion to extend the traffic stop for field sobriety tests. We affirm.

¶2 On July 12, 2015, at approximately 5:12 p.m., Thomas Dornbrook, the police chief of the Brandon/Fairwater Police Department, was on patrol when he observed a pickup truck—driven by Greenfield—traveling southbound on Main Street at 39 miles per hour (mph) in a 25 mph zone. Dornbrook followed the vehicle, intending to “pull [Greenfield] over for speeding.” As Dornbrook was catching up to the vehicle, he witnessed Greenfield cross the center line, drift onto the gravel shoulder, and again drift across the center line. Dornbrook stopped Greenfield’s vehicle.

¶3 Upon contact, Dornbrook observed a strong odor of intoxicants, and Greenfield admitted to drinking. Dornbrook asked Greenfield to perform field sobriety tests, after which he was arrested for operating while intoxicated. Greenfield consented to a test of his blood, revealing a blood alcohol concentration (BAC) of .174g/100mL. Greenfield moved to suppress all evidence against him, arguing that Dornbrook lacked reasonable suspicion to extend the traffic stop to conduct field sobriety tests. The circuit court denied the motion, and Greenfield was thereafter convicted by a jury of operating with a PAC.<sup>2</sup> Greenfield appeals.

¶4 Greenfield does not dispute that Dornbrook had grounds to stop him for speeding. Greenfield argues that Dornbrook only observed an odor of

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<sup>2</sup> The jury found Greenfield not guilty of operating while under the influence and speeding.

intoxicants and that no other evidence suggested that he was impaired, and Dornbrook, therefore, lacked reasonable suspicion to conduct field sobriety tests. We disagree. Greenfield's unsafe driving, admission to drinking, and the odor of intoxicants all gave Dornbrook reasonable suspicion to continue the detention for field sobriety testing. Once an officer executes a proper stop, if additional suspicious factors come to the officer's attention "which are sufficient to give rise to an articulable suspicion that the person has committed or is committing an offense or offenses separate and distinct from the acts that prompted the officer's intervention in the first place, the stop may be extended and a new investigation begun." *State v. Betow*, 226 Wis. 2d 90, 94-95, 593 N.W.2d 499 (Ct. App. 1999); *see also State v. Colstad*, 2003 WI App 25, ¶19, 260 Wis. 2d 406, 659 N.W.2d 394.

¶5 Greenfield's speeding and unsafe driving, combined with the additional suspicious factors of the odor of intoxicants and admission to drinking, provided articulable suspicion that Greenfield was impaired. Dornbrook properly extended the traffic stop to administer field sobriety tests.

*By the Court.*—Judgment affirmed.

This opinion will not be published. *See* WIS. STAT. RULE 809.23(1)(b)4.

